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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
09/669,057	09/25/2000	Bruce Brumberg	BRUM-101	2821												
7590 Robert K Tendler 65 Atlantic Avenue Boston, MA 02110		06/21/2007	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">PATEL, JAGDISH</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3693</td><td></td></tr><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>06/21/2007</td><td>PAPER</td></tr></table>		EXAMINER		PATEL, JAGDISH		ART UNIT	PAPER NUMBER	3693		MAIL DATE	DELIVERY MODE	06/21/2007	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/669,057	Applicant(s) BRUMBERG, BRUCE	
	Examiner JAGDISH PATEL	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 20-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to amendment filed 3/29/07.

Response to Amendment

2. Claims 1-16 have been cancelled and new claim 17-25 been added.

Response to Arguments

3. The applicant asserts that the cited references do not show the claimed inputs to the tools, the claimed calculation function of the tools or the claimed displayed results. The applicant fails to provide any explanation in support of this statement regarding the reference. The newly presented claims 17-19 (which are “patentably” non-obvious over the originally presented claims 1-16) labeled as “An Internet-based I Need Money” tool recites features which allows an individual to manage his or her account using an Internet-based” software disclosed in the “Prior” reference. Likewise, Prior also teaches ability to choose whether to immediately exercise the options, with the proceeds being used to fund an alternative investment vehicle, or whether to wait until closer to the end of the term of an option to exercise an option and fund an alternative investment as discussed in the following sections. Furthermore, among the newly presented claims only 17-19 and 23-25 recites the subject matter originally presented.

Election/Restrictions

3. Newly submitted claims 20-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

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Newly submitted claims 20-22 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The originally presented claims (1-16) recited invention directed to a method of providing an individual training about the individual's employee stock option plan for a specific stock. In this invention the individual is connected to a server via the Internet whereby the server provides option exercise outcome based upon the individual's (hypothetical) inputs concerning the stock option plan. In particular the claim(s) were directed to providing the individual with a calculation of what stock options to exercise to realize a predetermined amount of money (claim 3), tax considerations (claim 4 and 8) and an alternative investment calculation (claim 5). While the newly presented claims 17-19 recites similar feature as claims 3, 4 and 8, claims 20-25 are directed to patentably distinct invention as explained below:

Claims 20-22 are directed to calculating at the server overall gain by individual grant based on the stored and inputted information taking into account the inputted percentage increase for the stock price and the inputted increase in value for the alternative investment for the two cases of (1) immediately exercising the stock option and (2) waiting to exercise the stock option until closer to the end of the term of the stock option. This feature is distinct and non-obvious from the originally presented calculations performed by the server, which included providing the stock option exercise outcome without any reference to comparison of the two gains. It is also noted that whereas the new claims 17-19 and 23-25 are deemed not distinct from the originally presented claims, claims 20-22 are distinct from the originally presented claims as well as with respect to claims 17-19 and 23-25.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 20-22 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 17 recites that the input parameters are (i) after-tax money and (ii) the date (the money) needed. However, the calculation at the server does not reflect these inputs. The server calculates “projected stock option exercise gain for the exercise of each specific company stock”. How can one display from the calculated projected stock option exercise gain “what specific option or options to exercise” is unclear unless such parameter is calculated by the server. In other words the claim is defective since it fails to specifically point out determination of the specific stock option(s) based upon the user inputs.

Claim 17 recites “calculating ..the projected stock option exercise gain for the exercise of each specific company stock”. However, there is no basis for such calculation because to calculating step does not take into account the individual’s tax information, the present stock price and the vesting schedule.

The recitation “so as to calculate the total after-tax value ...” is merely intended purpose of the calculating step.

Appropriate corrections are required. Amendment to claims must be accompanied by an explanation as to how the specification supports the amended claim(s).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 17-19 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior (cited in previous office action).

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Claims 17-19: Prior teaches Internet-based stock option management software which enables the employees to perform "complex task" of monitoring their stock options as well as allowing the employees to make trades in the stock options. (see p. 64). It is noted that storing information about each of the stock options grants of the individual employee at the server (web-site). Since the employee manages their individual stock options via the Internet, any user desired inquiry regarding the individual's stock option can be made as one of ordinary skill in the art familiar with employee stock option plans can recognize and in view of Prior' specific teaching that tax consideration is important (see col. 3 on p. 64) because proceeding from the stock options is treated as capital gains and the tax liability depends on the period of holding as well as the amount.

Therefore, it is asserted that Prior teaches inherently the after-tax amount to be realized by an individual based inputs of his tax-rate, amount of stock options awarded and the time frame and that alternatively one of ordinary skill in the art can specify the amount desired and the date the amount desired to determine how many stock options would be required to satisfy that amount and date.

Regarding claims 23-25 Prior teaches calculation of the after-tax gain realized by an individual based on his tax- information. (see p. 64 Description of tax scenarios for the employees). Prior further teaches taxes across multiple jurisdictions in situations where the individual has shifted from one location where stock option is granted to another.

Therefore, it is asserted that Prior inherently teaches all features of the present claims.

Furthermore, since, the claimed invention is directed to management of the employee stock option plans, a varieties of features can be implemented that allows the employee to

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make decisions regarding management of ESOP account. The examiner asserts such features are inherently disclosed in the Prior reference. The examiner also asserts that one of ordinary skill in the art would be motivated provide any additional features such as those recited in the instant claims and not explicitly disclosed in the Prior reference so as to enhance efficient management of the individual employees to manage their own accounts with regards to optimum benefit realization which is a financial goal of each individual participating in the ESOP.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAGDISH PATEL whose telephone number is (571) 272-6748.

The examiner can normally be reached on **800AM-630PM Mon-Tue and Thu**

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **KRAMER JAMES A** can be reached on **(571)272-6783**. The fax phone number for the organization where this application or proceeding is assigned is 517-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jagdish N. Patel

(Primary Examiner, AU 3693)

6/8/07